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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WILLAMETTE RIVERKEEPER,
an Oregon non-profit organization;
OREGON WILD, an Oregon non-profit
organization, and **CASCADIA**
WILDLANDS, an Oregon non-profit
organization,

Plaintiffs,

v.

DENNIS C. TEITZEL, in his official
capacity as District Manager for the
Northwest Oregon District of the Bureau of
Land Management, and **UNITED STATES**
BUREAU OF LAND MANAGEMENT, a
federal agency,

Defendants.

Case No. 6:23-cv-1631-MK

NOTICE OF DISMISSAL BY
PLAINTIFFS UNDER FED. R. CIV. P.
41(a)(1)(A)(i)

NOTICE OF DISMISSAL BY PLAINTIFFS

Plaintiffs Willamette Riverkeeper, Oregon Wild, and Cascadia Wildlands (collectively, “Plaintiffs”) hereby state as follows:

1. WHEREAS, on November 7, 2023, Plaintiffs filed a complaint alleging that Defendants violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*, with their final administrative action issuing an Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”) for the Big League Timber Management Project (“Big League Project”),
2. WHEREAS, on December 14, 2023, BLM’s Northwest Oregon District, Upper Willamette Field Office withdrew the FONSI for the Big League Timber Management Project Environmental Assessment stating, “If or when BLM chooses to develop a new Environmental Assessment under the National Environmental Policy Act (NEPA), it will consider new information, conduct additional analysis, and solicit further input from members of the public.” Exhibit A,
3. WHEREAS, on December 28, 2023, BLM and the National Marine Fisheries Service jointly responded to a notice letter regarding the Big League Project that Plaintiffs submitted pursuant to Section 11(g) of the Endangered Species Act (“ESA”), and reiterated that “[w]hether there may be future timber management under the Project will first depend on future NEPA analysis, consideration of public input during the NEPA analysis process, and the result of future ESA consultation between the agencies.” Exhibit B,
4. WHEREAS, counsel for Defendants have not appeared (see Docket), and

5. WHEREAS, Defendants have not yet filed an Answer (see Docket).

In light of these changed circumstances and representations by Defendants, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs:

1. Dismiss the above-captioned lawsuit in its entirety without prejudice.
2. It is the express intention of the Plaintiffs that this dismissal not have any preclusive effect or have the effect of waiver or estoppel whatsoever on any future proceedings or litigation that is based on the alleged occurrence or the recurrence of any claim, defense, fact, or circumstance at issue in the present case or related to the present case.

Dated this 12th day of January, 2024.

Respectfully submitted,

s/ Lindsey Hutchison
Lindsey Hutchison, OSB # 214690

s/ John Persell
John Persell, OSB # 084400

s/ Peter Jensen
Peter Jensen, OSB # 235260

s/ Nicholas S. Cady
Nicholas S. Cady, OSB # 113463

Attorneys for Plaintiffs

EXHIBIT A



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Springfield Interagency Office, Northwest Oregon District
3106 Pierce Parkway Suite E, Springfield, Oregon 97477
<http://www.blm.gov>



December 14, 2023

Withdrawal of Finding of No Significant Impact (FONSI) for the Big League Timber Management Project Environmental Assessment (DOI-BLM-ORWA-N050-2022-0003-EA)

Dear Interested Public:

The Bureau of Land Management (BLM), Northwest Oregon District, Upper Willamette Field Office, is notifying you that the Finding of No Significant Impact (FONSI) for the Big League Timber Management Project Environmental Assessment (DOI-BLM-ORWA-N050-2022-0003-EA) has been withdrawn.

If or when BLM chooses to develop a new Environmental Assessment under the National Environmental Policy Act (NEPA), it will consider new information, conduct additional analysis, and solicit further input from members of the public. I anticipate that BLM would issue a new FONSI if it finds there would be no significant environmental impacts and a Decision Record at the conclusion of this future NEPA process. For more information about the Big League Timber Management Project, please contact me at (503) 375-5643.

Sincerely,

Dennis C. Teitzel
District Manager
Northwest Oregon District

EXHIBIT B



U.S. Department of the Interior
Bureau of Land Management
Northwest Oregon District Office
1717 Fabry Road, SE
Salem, OR 97306



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OR 97232-1274

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Lindsey Hutchinson, Staff Attorney
Willamette Riverkeeper
1210 Center St.
Oregon City, OR 97045

Peter Jensen, Legal Fellow
Cascadia Wildlands
P.O. Box 10455
Eugene, OR 97440

Dear Counsel:

We received your letter of November 1, 2023 titled "Notice of Intent to Sue to Remedy Violations of the Endangered Species Act Regarding the National Marine Fisheries Service's and Bureau of Land Management's Failure to Reinitiate Consultation Regarding Effects on Upper Willamette River Spring Chinook Salmon (*Oncorhynchus tshawytscha*) and Critical Habitat Following the 2020 Holiday Farm Fire." You allege that the Bureau of Land Management ("BLM") and the National Marine Fisheries Service ("NMFS") (collectively "agencies") are in violation of the Endangered Species Act for failing to reinitiate consultation on the effects of BLM's Big League Timber Management Project on Upper Willamette River spring Chinook salmon and its critical habitat following the 2020 Holiday Farm Fire.

Relevant here, reinitiation of consultation is required where discretionary Federal involvement or control over the action has been retained and "new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered." 50 C.F.R. § 402.16(a)(2). On July 20, 2023, BLM published the Finding of No Significant Impact (FONSI) for the Big League Timber Management Project. BLM has not published a Decision Record ("DR") for the Big League Project. On December 14, 2023, the BLM Northwest Oregon District Manager withdrew the FONSI for the Big League Timber Management Project and intends to reconsider the Project after additional environmental analysis and public input. The Project and any associated timber sales will not proceed unless and until this reconsideration process is completed and BLM decides it would proceed with any timber management activities. This future process would also account for BLM's consultation duties as required by Section 7 of the Endangered Species Act. 16 U.S.C. § 1536(a)(2). Given these changed circumstances, we believe the principal basis for your NOI is no longer applicable, and there is no need



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Northwest Oregon District Office
1717 Fabry Road, SE
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UNITED STATES DEPARTMENT OF COMMERCE
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to pursue your NOI in court. Whether there may be future timber management under the Project will first depend on future NEPA analysis, consideration of public input during the NEPA analysis process, and the result of future ESA consultation between the agencies. We hope this information is helpful and that you and your clients will refrain from unnecessary litigation.

Sincerely,

Dennis C. Teitzel
District Manager
Northwest Oregon District Office
U.S. Bureau of Land Management

Kim W. Kratz, Ph.D
Assistant Regional Administrator
Oregon Washington Coastal Office
West Coast Region

CERTIFICATE OF SERVICE

I certify that on this 12th day of January, 2024, I served a true and correct copy of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to all attorneys of record. In addition, I sent a copy of the foregoing by electronic mail to Sean Martin, attorney for Defendants Dennis C. Teitzel and U.S. Bureau of Land Management, at the following email address: Sean.Martin@usdoj.gov.

s/ Lindsey Hutchison

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